

From: Guerrero, Carmen
To: Font, Jose; Rodriguez, Nancy; Rivera, Jose; Maclay, Yolianne; Velez, Hector; Melendez-Colon, Suzette; Soto, Jose; Lopez, Jaime; Finocchiaro, Marco; Feinmark, Phyllis
Subject: SUPPORT REQUEST: Updates on NPDES Aguadilla and Arecibo Cases
Date: Thursday, August 11, 2022 5:14:51 AM

Buenos dias! Last night at 9:30 pm, I received a call from DNER Acting Secretary Anais Rodriguez. She wanted to see if EPA could provide her an update regarding the projects in Aguadilla (The Cliff and Aguadilla Pier) and Arecibo. Specifically,

- **For the projects in Aguadilla**, have owners/developers for both projects complied with EPA's permit and NOV requirements. She is receiving calls from owners/developers informing DNER that they have all EPA permits and that they are in compliance with our NOV requirements. Is this correct? Could you provide me an update?
- **For the project in Arecibo**, she is asking if EPA/USACE have determined if the agencies have jurisdiction over the actions taken in this location? Do EPA/USACE have jurisdiction? DNER would like to have an understanding of federal agencies potential next steps. Could you provide me an update on this that we are allowed to share with DNER?

For your awareness, there has been extensive press coverage in WAPA TV on the Aguadilla cases (a four part series). Here is the link to the first two parts:

https://www.wapa.tv/noticias/especiales/incumplimiento-con-reglamentaciones-y-leyes-ambientales-en-aguadilla---segunda-parte_20131122535921.html?fbclid=IwAR2X7lF2pfcf3PA5h438RRqyLqbeZx8UvtwgkCnNrdclRbpbY7lYH01i_PU&fs=e&s=c

Jose Rivera, prior to taking annual leave, had shared the following updates on these cases (see below). Please let me know if you can share any new updates or information that I can share with the Secretary. I indicated to her that EPA would work to get her updates today.

Copying Marco and Phyllis regarding the Arecibo case.

Mil gracias!
Carmen

The Cliff (POCs: J. Rivera / S. Meléndez)

- Order issued on 6/27/2022
- Both Respondents acknowledged receipt of the ACO
- Both Respondents submitted certification that they ceased discharges and ceased construction. Certification was signed on 7/6/22 but received by EPA on 7/20/22.
- Both Respondents submitted Plan of Action (7/28/22). To be reviewed.
- EPA/Respondents' meeting scheduled for 8/18/22, as per ACO.
- Both Respondents were issued 2022 CGP coverage for the Project.

Aguadilla Pier (POCs: J. Rivera / S. Meléndez)

- RFI letter sent on 6/29/22
- RL Partners sent partial response to EPA on 7/19/22
- Second and final response to RFI due to EPA on 7/29/22 (today). Consultant indicated that it will be sent later today.
- Plan of Action due to EPA on 8/14/22
- RL Partners with 2022 CGP coverage

CIC's Mining Operations in Arecibo (POCs: J. López / M. Finocchiaro)

- Further to the briefing to CEPD Director, meeting with P. Feinmark took place on 7/25/22. Action item is for Marco to check in with HQs on WOTUS.
- J. Soto's notes - A review of historic conditions at the site using satellite imagery showed that the current activity began sometime between October 6 and December 30, 2021. Historical images show that similar smaller scale activities have been performed previously at the site to remove material from the off-stream reservoir. On July 26, the Corps of Engineers provided a copy of the final permit for the North Coast Super Aqueduct, revealing that maintenance work was contemplated in the special conditions upon notification to the Corps and the use of erosion/sedimentation controls as well as nearby wetlands protection measures. Furthermore, in 2006, PRASA requested verification whether additional permits were required to dredge accumulated material at the off-stream reservoir to restore capacity. The Corps issued a response stating that no further permits would be required for maintenance activities, provided that the control measures previously mentioned were implemented. This evidence suggests that the current activity is covered by the CWA Section 404 permit issued for the project.
- Please refer to J. Soto's July 27 email message for updates on USACE permitting. Records are attached to the email.
- CWA/NPDES inspection report to be prepared